

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE ANDRES ALEJANDRO SOZA, *et al.*,
Debtors.

ANDRES ALEJANDRO SOZA, *et al.*,
Appellants,

VS.

JOSEPH M. HILL, TRUSTEE.,
Appellee.

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CIVIL ACTION H-06-0466

BANKRUPTCY CASE NO. 05-92131-H1-7

MEMORANDUM AND ORDER

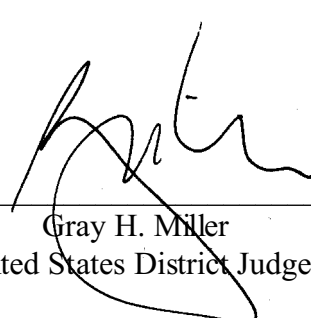
Appellants Andres Alejandro Soza and Mary Rachel C. Buzo request a stay of a Bankruptcy Court order denying their exemption claim to an annuity (Dkt. 2). The Trustee in this matter seeks dismissal of this motion for failure to comply with Bankruptcy Rule 8005 (Dkt. 3). Bankruptcy Rule 8005 provides that

A motion for a stay of the judgment, order, or decree of a bankruptcy judge, ... or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance.... A motion for such relief, ... may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification, or termination was not obtained from the bankruptcy judge.

FED. R. BANKR. P. 8005. There is no indication that the appellants first sought a stay with the Bankruptcy Court. *Cf. In re Alexander*, 248 B.R. 478, 484 (S.D.N.Y. 2000). Nor did the appellants show why a stay was not sought from the bankruptcy judge.

Accordingly, the motion for stay is DENIED and the motion to dismiss the stay is GRANTED.

Signed on June 26, 2006, at Houston, Texas.



Gray H. Miller
United States District Judge